

# **ENVIRONMENTAL APPEALS BOARD**

*Business Plan 2008-2011*



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Business Plan 2008-11

## **ACCOUNTABILITY STATEMENT**

The business plan for the three years commencing April 1, 2008 was prepared under my direction in accordance with the *Government Accountability Act* and the government's accounting policies. All of the government's policy decisions as of March 31, 2008, with material economic or fiscal implications of which I am aware have been considered in preparing the business plan.

The Board's priorities outlined in the business plan were developed in the context of the government's and ministry's business and fiscal plans. I am committed to achieving the planned results laid out in this business plan.

"original signed by"

Steve E. Hrudey, Chair  
April 8, 2009

## **THE BOARD**

The Environmental Appeals Board is a quasi-judicial board that reports to the Minister of Environment. The Board hears appeals of certain decisions made under the *Environmental Protection and Enhancement Act*, the *Water Act*, the *Government Organization Act*, and the *Climate Change and Emissions Management Act*.

## **Introduction**

Established on September 1, 1993, by the proclamation of the *Environmental Protection and Enhancement Act*, ("EPEA") the Environmental Appeals Board (the "EAB" or "Board") provides Alberta citizens and industry with a mechanism to appeal certain decisions made by Alberta Environment. The scope of the Board's mandate expanded with the implementation of the *Government Organization Act* in 1995 and again in 1999 with the *Water Act*. This has significantly increased the Board's workload and function. The Board is committed to the impartial and efficient resolution of all matters before it and is committed to ensuring the appeal process is fair, thorough, timely, and cost-effective. The Chair of the Board reports directly to the Minister of Environment.

### **Vision Statement**

Promote a high quality of life in Alberta through the timely and thorough review of environmental decisions.

Albertans value their environment for the ecological, economic, and social benefits it provides. They expect their water to be safe, their air to be clean, their land to be productive, and careful decisions to be made about the protection and management of the environment for generations to come. Albertans expect to be treated fairly and have matters involving their applications or appeals heard in a timely manner. The Board is committed to ensuring businesses and citizens have the opportunity to provide advice with respect to environmental decisions and recognizes the shared responsibility of all Albertans to protect the environment.

### **Mission Statement**

The Environmental Appeals Board will advance the protection, enhancement, and wise use of Alberta's environment by providing fair, impartial, and efficient resolution of all matters before it.

### **Link to Government of Alberta Strategic Business Plan**

The Board supports Goal 3 of the Government of Alberta Strategic Business Plan, the high quality of Alberta's environment will be sustained. In its decisions and recommendations, the Board addresses the impacts of development on land, air, water, and biodiversity and recognizes the importance of water quality and quantity to all Albertans. Through the recently enacted Climate Change and Emissions Management Act, the Board also addresses climate change. The Board will ensure Alberta's resources are developed in an environmentally sustainable way.

## **Significant Opportunities and Challenges**

### **Climate Change**

As the jurisdiction of the Board expands with the implementation of the *Climate Change and Emissions Management Act*, the Board has a role in ensuring the environmental impacts of development and cumulative impacts are reduced.

### **Water Quality and Quantity**

As water becomes an increasingly valuable and limited resource, the Board will hear more appeals regarding the issuance, or denial, of licences and approvals related to water.

### **Cumulative Impacts**

Balancing land use and the encroachment of development into residential areas will require the Board to balance all of the interests that appear before it while bearing in mind the purposes of the relevant legislation.

### **External Factors**

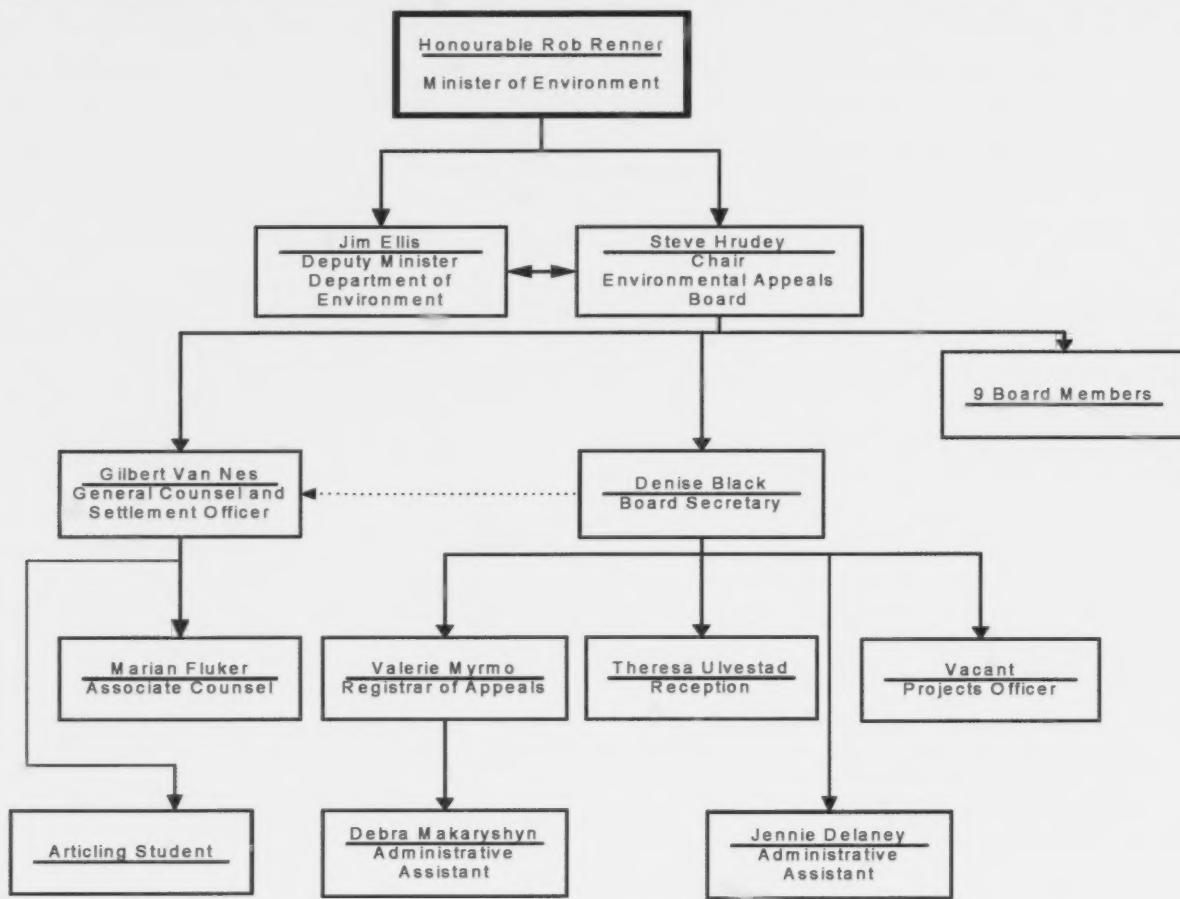
Because the number and types of appeals are externally driven, the Board does not control its workload in any given year. The Board strives to resolve the appeals, either through mediation or hearings, as quickly as possible. The type of appeal can affect whether the matter proceeds directly to a hearing or whether the issue can be mediated.

## **Board's Structure and Organization**

The Board holds a unique position in relation to the Department of Environment and the Ministry of Environment. The Board is under the umbrella of the Ministry and reviews and hears appeals regarding decisions made by Directors (statutory decision-makers) within the Department of Environment. Being an adjudicative body, the Board operates at arms-length from the Department to maintain the necessary degree of independence and impartiality. However, for budgetary reasons and for the purposes of providing the Minister with its reports and recommendations once completed, the Board remains aligned with the operations and goals of the Ministry of Environment.

The Board consists of two distinct, yet interconnected entities: Board members and Board staff. The Provincial Cabinet appoints Board members, while the Government of Alberta, under the direction of the Chair, employs Board staff. Collectively, Board members have a variety of expertise and knowledge in environmental matters. Their decisions on matters under appeal are based on impartial, unbiased, and independent judgment. Board staff, employed by the public service, accept the fiscal, environmental, and human resource goals of the government and, at the same time, remain focused on supporting the objectives and goals of the Board and its operations. Further, Board staff is dedicated to the operating principles of the Board and its mission.

## ENVIRONMENTAL APPEALS BOARD ORGANIZATION CHART



## **Core Values**

In conducting its business, the Board is governed by its mandate, as established by legislation, to support and promote the protection, enhancement, and wise use of the environment. In particular, the Board is committed to the following core values:

### ***Ecosystem Sustainability***

Consistent with the legislation, the Board believes that a healthy environment is essential to the integrity of ecosystems and human health and to the well being of Albertans.

### ***Sustainable Development***

The Board hears and processes appeals in a fair and effective manner striving to ensure the wise use of Alberta's renewable resources with the goal that future generations may benefit from them.

### ***Shared Responsibility***

The Board shares the responsibility of managing Alberta's natural resources by providing Albertans the opportunity to have a voice through appeal processes, as authorized in the legislation.

### ***Public Involvement***

The Board ensures information on its mandate and rules and regulations is freely accessible. The Board provides Albertans with the opportunity to become participants in appeals through mediation or hearings.

### ***Mediation as the Preferred Way to Resolve Matters***

Board mediations promote open and collaborative discussions between participants and encourage individuals to come up with their own solutions. Mediation can help increase communication, develop a better understanding of the participants' concerns, and offer win-win solutions.

### ***Informed Findings***

The Board hears and processes appeals on the basis of relevant scientific, technological, socio-economic, and environmental information to ensure fully informed findings.

### ***Public Service***

The Board is dedicated to providing excellent service to Albertans.

### ***Healthy and Supportive Work Environment***

The Board values its staff and Board members and strives to provide a working environment where open, honest, and respectful communication is encouraged. The Board also supports its staff in maintaining a healthy, active lifestyle.

## **Core Business**

The goals of the Board are linked to the core business and goals of the Ministry of Environment and the strategic direction of the Alberta government, which are people, prosperity, and preservation. Social (community), economic (prosperity), and environmental (sustainability) effects of resource development are reviewed through the Board's appeal process to ensure that Alberta's natural resources are sustained, the high quality of Alberta's environment is maintained, and resource development contributes to prosper. The Board is committed to contributing to the sustainable development of Alberta's natural resources for the benefit of Albertans today and in the future.

### **STRATEGIC PRIORITIES 2008-11**

The Board recognizes the initiatives undertaken by the Ministry of Environment to support the strategic priorities of the Government of Alberta.

#### **GREENING OUR GROWTH**

|                                                                              |                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Climate Change<br>Linkage:<br>Goals 1,2,3,4 and 6                         | The Ministry of Environment, together with its partners, will implement the climate change strategy, including conservation, energy efficiency, and adaptation initiatives.                                                                                                                                |
| 2. Environmental<br>Stewardship Information<br>Linkage:<br>Goals 3,4,5 and 6 | The Ministry of Environment, together with its partners, will inform Albertans on our environmental stewardship to ensure a clear provincial, national and international understanding of Alberta's leadership, commitment and action on the environment.                                                  |
| 3. Cumulative Effects<br>Management<br>Linkage:<br>Goals 1,2,3,4,5 and 6     | The Ministry of Environment, together with its partners, will lead Alberta's transition to an outcomes focused cumulative effects management system that is integrated with Alberta's Land-use Framework and address the impacts of development on land, air, water and biodiversity, at a regional level. |
| 4. Water Quality and<br>Quantity<br>Linkage:<br>Goals 1,2,3,4,5 and 6        | The Ministry of Environment, together with its partners, will manage Alberta's water resources to ensure the province has the quality and quantity of water needed now and into the future to support the population, healthy aquatic ecosystems and economic growth.                                      |
| 5. Oil Sands<br>Linkage:<br>Goals 1,2,3,4 and 6                              | The Ministry of Environment, together with its partners, will enhance our environmental management system to ensure we are world leaders in environmentally sustainable development of the oil sands through innovative policies and procedures that focus on cumulative effects.                          |

## CORE BUSINESSES, GOALS, STRATEGIES & PERFORMANCE MEASURES

## **Core Business: Effective Resolution of Appeals**

The Board's core business is to resolve appeals of directly affected parties on certain decisions made by Alberta Environment, including environmental approvals, water licences, enforcement actions, reclamation certificates, and other matters. The Board resolves most appeals through two mechanisms – mediations or a formal hearing process.

## **Goal 1**

## **Effective resolution of appeals through mediation**

## **What it means**

Most of the appeals that come before the Board are resolved through mediation, a consensus based approach to resolving the issues appealed. Mediation is a voluntary process and Board members act as mediators. Participants work together to find a resolution satisfactory to all those in attendance. After attending mediation, all participants are sent a questionnaire on the mediation process.

### **Strategies**

- 1.1 Use mediation to resolve appeals when appropriate.
- 1.2 Promote fairness in its mediation process.
- 1.3 Ensure participants to mediation are satisfied with the mediation process.

| <b>Performance Measures</b>                                                                               | Last Actual<br>(2006-07) | Target<br>2008-09 | Target<br>2009-10 | Target<br>2010-11 |
|-----------------------------------------------------------------------------------------------------------|--------------------------|-------------------|-------------------|-------------------|
| 1.a When deemed appropriate, participants will engage in mediation                                        | 100%                     | 90%               | 90%               | 90%               |
| 1.b Appeals are resolved through mediation                                                                | 85%                      | 85%               | 85%               | 85%               |
| 1.c Participants in mediation would use mediation again                                                   | 79%                      | 80%               | 85%               | 85%               |
| 1.d Participants considered the resolution reached was satisfactory to them                               | 67%                      | 70%               | 70%               | 70%               |
| 1.e Mediation participants believed the mediation process was efficient and was time and money well spent | 58%                      | 75%               | 75%               | 80%               |
| 1.f Mediation participants thought mediation cost less and took less time than a formal hearing           | 82%                      | 70%               | 75%               | 75%               |

**Goal 2****Effective resolution of appeals through hearing process****What it means**

The Board will process appeals in an effective and efficient manner. The Board will abide by the applicable legislation and the principles of natural justice and procedural fairness for all participants who appear before it.

**Strategies**

- 2.1 Comply with legislated timeframes for decisions.
- 2.2 Complete decisions in a timely manner.
- 2.3 Process appeals quickly and efficiently.

| <b>Performance Measures</b>                                                                                | Last Actual<br>(2006-07) | Target<br>2008-09 | Target<br>2009-10 | Target<br>2010-11 |
|------------------------------------------------------------------------------------------------------------|--------------------------|-------------------|-------------------|-------------------|
| 2.a Decisions and recommendations will be completed within legislated timeframes                           | 100%                     | 100%              | 100%              | 100%              |
| 2.b Decisions with no legislated timeframe will be completed within 60 days of receiving final submissions | 71%                      | 85%               | 85%               | 85%               |
| 2.c Participants to appeals will not request a reconsideration of the Board's decisions.                   | 100%                     | 90%               | 90%               | 90%               |
| 2.d Decisions and recommendations that are judicially reviewed will not be overturned by the courts        | 100%                     | 80%               | 80%               | 80%               |

**Performance Measure Under Development**

The Board will develop a method to track the efficiency in which an appeal is scheduled for mediation or a hearing.

**EXPENSE BY CORE BUSINESS**

(thousands of dollars)

|                                 | Comparable        |                   |                     |                     |                   |                   |
|---------------------------------|-------------------|-------------------|---------------------|---------------------|-------------------|-------------------|
|                                 | 2006-07<br>Actual | 2007-08<br>Budget | 2007-08<br>Forecast | 2008-09<br>Estimate | 2009-10<br>Target | 2010-11<br>Target |
| Effective Resolution of Appeals | 1,101,000         | 1,100,000         | 1,100,000           | 1,100,000           | 1,100,000         | 1,100,000         |
| BOARD EXPENSE                   | 1,101,000         | 1,100,000         | 1,100,000           | 1,100,000           | 1,100,000         | 1,100,000         |

**BOARD STATEMENT OF OPERATIONS**  
 (thousands of dollars)

|                             | Comparable        |                   |                     |                     |                   |                   |
|-----------------------------|-------------------|-------------------|---------------------|---------------------|-------------------|-------------------|
|                             | 2006-07<br>Actual | 2007-08<br>Budget | 2007-08<br>Forecast | 2008-09<br>Estimate | 2009-10<br>Target | 2010-11<br>Target |
| <b>BOARD BUDGET</b>         | <b>1,101,000</b>  | <b>1,100,000</b>  | <b>1,100,000</b>    | <b>1,100,000</b>    | <b>1,100,000</b>  | <b>1,100,000</b>  |
| <b>EXPENSE</b>              |                   |                   |                     |                     |                   |                   |
| Manpower                    | 640,964           | 721,000           | 721,000             | 721,000             | 721,000           | 721,000           |
| Supplies and Services       | 293,144           | 379,000           | 379,000             | 379,000             | 379,000           | 379,000           |
| Capital Expense             | -                 | -                 | -                   | -                   | -                 | -                 |
| Board Expense               | 934,108           | 1,100,000         | 1,100,000           | 1,100,000           | 1,100,000         | 1,100,000         |
| <b>NET OPERATING RESULT</b> | <b>166,892</b>    | <b>0</b>          | <b>0</b>            | <b>0</b>            | <b>0</b>          | <b>0</b>          |

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